IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. Nos: 757,786, 797,798, 800, 837, 838, 839, 927, 1009, 1019, 1020, 1108 of 2004 and CWP 102 of 2005

Date of decision: 28.12.2006

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1. CWP No. 757 of 2004

Nishar Ahamed **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.M.A.Khan, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 to 3.

Mr.Rakesh Jaswal, counsel for respondent No. 4.

2. CWP No. 786 of 2004

Rakesh Sharma **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.K.S.Thakur, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 to 3.

Mr.Rakesh Jaswal, counsel for respondent No. 4.

3. CWP No. 797 of 2004

Virender Kumar **Petitioner**

Versus

Chaudhary Sarwan Kumar H.P.Krishi Vishvavidyala and others **Respondents**

Mr.Rajeev Sharma, Senior Advocate, with Mr.Surnder Shrama, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for the respondents.

4. CWP No. 798 of 2004

Chander Shekhar **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr. B.C.Negi, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for the respondents.

5. CWP No. 800 of 2004

Ramesh Kumar **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.Neeraj Kumar Sharma, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 & 2.

Mr.Rakesh Jaswal, counsel for respondent No. 3.

6. CWP No. 837 of 2004

Chanderkant Sharma **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.K.S.Thakur, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 to 3.

Mr.Rakesh Jaswal, counsel for respondent No. 4.

7. CWP No. 838 of 2004

Kishori Lal **Petitioner**

Versus

Chaudhary Sarwan Kumar H.P.Krishi Vishvavidyala and others **Respondents**

Mr.Naresh Kaul, counsel for the petitioner

Mr.Rakesh Jaswal, counsel for respondent No. 1

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No.2 & 3.

8. CWP No. 839 of 2004

Shanta Kumar **Petitioner**

Versus

Chaudhary Sarwan Kumar H.P.Krishi Vishvavidyala and others **Respondents**

Mr.Naresh Kaul, counsel for the petitioner

Mr.Rakesh Jaswal, counsel for respondent No. 1

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No.2 & 3.

9. CWP No. 927 of 2004

Daya Ram **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.G.R.Palsra, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondent No. 1.

Mr.Rakesh Jaswal, counsel for respondent No. 2.

10. CWP No. 1009 of 2004

Tilak Raj **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.Rajeev Jiwan, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 to 3.

Mr.Rakesh Jaswal, counsel for respondent No. 4.

11. CWP No. 1019 of 2004

Seema Devi **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.Kulbhushan Khajuria, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 & 2.

Mr.Rakesh Jaswal, counsel for respondent No. 3.

12. CWP No. 1020 of 2004

Prem Pal **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.Kulbhushan Khajuria, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 & 2.

Mr.Rakesh Jaswal, counsel for respondent No. 3.

13. CWP No. 1108 of 2004

Sunil Kumar **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.M.A.Khan and Neeraj Kumar, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 to 3.

Mr.Rakesh Jaswal, counsel for respondent No. 4.

14. CWP No. 102 of 2005

Om Parkash **Petitioner**

Versus

State of H.P. and others **Respondents**

Mr.Rajiv Jiwan, counsel for the petitioner

Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG for respondents No. 1 to 3.

Mr.Rakesh Jaswal, counsel for respondent No. 4.

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting?[1]

Per Deepak Gupta, J.(Oral)

These petitions can be disposed of by a common order. Chaudhary Sarwan Kumar Himachal Pradesh Vishav-Vidyalaya, Palampur, (hereinafter referred to as the University) issued an advertisement inviting applications from eligible candidates for admission to the two years' Veterinary Pharmacist Training Course. The admissions to this course were made on the basis of a written test and interview. The criteria for a candidate to be eligible to apply was that he must have passed 10+2 examination. One of the other essential qualifications was

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

that he should have done matriculation with science subject. Only permanent residents of Himachal Pradesh between the age of 18 to 20 years were eligible to apply.

The petitioners being eligible for admission applied for the said course. A written test was conducted on 13.7.2003. The result of the same was declared on 11.9.2003. The petitioners cleared the written test and were called for personal interview. After the interview, the petitioners were not selected and thereafter they filed the writ petitions in this court. In the writ petitions, it has been alleged that 20% marks for interview were very much on the higher side and that the respondents have indulged in wide scale malpractices and have encouraged nepotism and unfair practices by giving higher marks in the interview to undeserving candidates whom they wanted to favour. It is also alleged that the candidates who had secured very high marks in the written test and were otherwise also well qualified were given very low marks in the interview so as to oust them. It was also alleged that on each day as many as 150-200 interviews were conducted and such interviews could not have been carried out in a fair manner. A Division Bench of this court had dealt with this matter in CWP No. 611 of 2004. The

said writ petition was decided on 6.5.2005 by a Division Bench of this court to which one of us (Deepak Gupta,J.) was a member. This court held as follows:-

> "The candidates are being selected not for any public employment but only for a two years, post school, vocational course. The manner in which the oral interview test has been conducted in the present case leaves vast scope for discrimination, manipulation and nepotism which may remain undetected under the cover of an interview. There is no reason why the respondents should insist on the interview. There are no reasons to test the personal traits of a candidate for admission to a course like the Veterinary Pharmacist course. There is inherent weakness and infirmity in the system of interviews itself which is subjective rather than objective. The major role is played by the subjective assessment of the Selection Committee. The students who are seeking admission are young and predominantly belong to rural areas and personality of such students still remained to be developed and as such the only consideration for their admission to the course should be their academic performance.
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> Keeping into consideration the entire law cited above and the present existing situation we hold that the interview test is totally uncalled for and should not be conducted for admission to courses of the nature like Veterinary Pharmacist, JBT etc. where young boys and girls whose personality has not fully developed are to be judged. In the facts of the

present case the interview test is illegal, discriminatory and suffers from the vice of arbitrariness. Hence, it is violative of Article 14 of the Constitution of India."

Even though we held that the interviews were conducted in a very improper manner, leaving vast scope for discrimination, manipulation and nepotism since the Veterinary Pharmacist course had already started in the month of August, 2004 and the matter was decided on 6th May, 2005, we had not granted any relief to the petitioner in the said case.

The only difference between the present case and CWP No. 611 of 2004 is that in the said case the petitioner therein had first approached the learned Tribunal, whereas the present petitioners have straightaway approached this court. However, the fact remains that the selection which is under challenge started in August, 2004 and the writ petitions which we are dealing with were filed in between October and December, 2004. The persons who were selected were not made parties to the writ petitions and, therefore, we are of the opinion that it would not be appropriate to interfere with the selection which has already taken place and the persons, so selected, have already completed the

two years' Veterinary Pharmacist course in August, 2006. Therefore, even though we hold that the selections made were improper, in view of the earlier judgment passed by this court, no relief can be granted to the petitioners.

The petitions are accordingly dismissed. All the pending applications in all the above mentioned writ petitions also stand disposed of.

(Deepak Gupta), J.

December 28, 2006(K) (Surinder Singh),J.